

CPS-313

July 21, 2005

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. **05-1545**

DEMETRIUS BAILEY

v.

CONNER BLAINE, ET AL.

(W.D. Pa. Civ. No. 00-cv-01638)

Present: ALITO, MCKEE and AMBRO, Circuit Judges

Submitted is Appellant's motion to reopen, which includes a request for an extension of time to pay the fees, in the above-captioned case.

Respectfully,

Clerk

MMW/MAP/arl

ORDER

The motion to reopen the appeal is granted. A motion to set aside a dismissal for failure to prosecute must be timely and justified by good cause. See 3rd Cir. LAR Misc. 107.2(a). Bailey's motion, filed on April 11, 2005, was timely. See Fed. R. App. P. 30; see also Houston v. Lack, 487 U.S. 266, 276 (1988). Bailey attempted to timely pay the fees for this appeal, and the correct fees have now been paid. The motion for an extension of time to make payment is denied as moot. The clerk is directed to issue a briefing schedule.

By the Court,

/s/ Thomas L. Ambro, Circuit Judge

Dated: September 6, 2005

arl/par/cc: Mr. D.B.

R.S.E., Esq.